

REMARKS

Reconsideration of the application and claims in light of the following remarks is respectfully requested.

I. Status of the Claims

Claims 8, 11, 16 and 17 are pending in this application. Claims 1-7, 9, 10 and 12-15 were previously canceled. Claim 8 is currently amended.

Independent claim 8 is amended to recite that the “support layer absorbs moisture or dissolves in water.” Support for this amendment can be found in, at least, page 12, lines 2-15 of the Specification. No new matter is added. The entry and consideration of the amendment is therefore respectfully requested.

II. Objection of the August 28, 2009 Amendment Under 35 U.S.C. § 132(a)

The August 28, 2009 Amendment is objected to under 35 U.S.C. § 132(a) for introducing new matter into the disclosure of the invention. Claim 8 is amended to remove the matter introduced by the August 28, 2009 Amendment. Applicants respectfully request withdrawal of this objection.

III. Claim Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 8, 11, 16 and 17 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action notes that the support layer being capable of both dissolving and absorbing moisture is not supported by the present specification. Claim 8 is amended to recite that “the support layer absorbs moisture or dissolves in water.” Applicants submit that the amendment to claim 8 is sufficient to overcome the 35 U.S.C. § 112 rejection and respectfully request that the rejection be withdrawn.

IV. Claim Rejections Under 35 U.S.C. § 103

Claims 8, 11, 16 and 17 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 6,160,200 to Ehrnsperger et al. (“Ehrnsperger”) in view of U.S. Patent No. 4,740,402 to Maeda et al (“Maeda”).

Ehrnsperger discloses a directionally preferential waste passage member for use with a disposable absorbent article. The waste passage member includes a soluble material, which is dissolved by substances found in human or mammalian bodily waste. *See Ehrnsperger*, col. 10, lines 36-41. Ehrnsperger also discloses that various properties of the body waste may trigger or initiate the dissolution of material, including, but not limited to, moisture, pH, enzymes, temperature, pressure, chemicals (e.g. salts, proteins) and the like. *See Ehrnsperger*, col. 10, lines 50-53. In Ehrnsperger, the waste passage member contains a soluble material. When the bodily waste soluble material contacts excretions, it is fluidized to allow the excretions to pass through to the topsheet side.

Claim 8 recites a support layer that absorbs moisture or dissolves in the presence of the wearer’s sweat and excretions, and is fluidized, and, after the thus-fluidized support layer has moved, the skin-protecting ingredient containing layer is exposed outside to form an oily film (emphasis added). Conversely, the waste passage member 60 of Ehrnsperger is formed to allow the excretions to pass through to the topsheet side preventing the excretions from contacting the skin. Ehrnsperger does not teach or suggest that the inside material (skin-protecting ingredient containing layer) is exposed outside as recited in claim 8. Maeda also does not teach or suggest a skin-protecting ingredient containing layer as described in claim 8.

Furthermore, claim 8 recites “a support layer substantially entirely and directly coating a skin-protective ingredient containing layer.” As shown in a cross-section drawing of Fig. 2 in Ehrnsperger, there is space between the waste passage member 60 and the topsheet 24. This space is for retaining the excretions that have passed to the topsheet side. As described in Ehrnsperger, the waste passage member 60 is formed separately and joined about its peripheral edges. *See Ehrnsperger* col. 17, lines 56-60. Though Ehrnsperger discloses that the waste passage member 60

may be integral with or joined to the topsheet, it does not disclose that the waste passage member 60 substantially entirely and directly coats the topsheet. Maeda also does not teach or suggest a support layer substantially entirely and directing coating a skin-protective ingredient containing layer as described in claim 8.

Finally, Ehrnsperger discloses that “upon excretion, the bodily wastes dissolve a portion of the waste passage member, thereby eliminating the structural integrity of at least a portion of the waste passage member, preferably in the region of the contact between waste and the waste passage member, allowing passage of the waste.” *See Ehrnsperger*, col. 10, lines 44-49. Applicants submit that the dissolving of the soluble member of Ehrnsperger is not related to the release of the skin-protective ingredient onto the skin, but with the elimination of waste away from the skin. Thus, while the skin-protective ingredient of Ehrnsperger may be disposed on any part of the topsheet, it is not at all related to the dissolving of the soluble member which is disposed on only the central part of the sheet where waste is introduced. *See Ehrnsperger*, Figure 1. Thus, Ehrnsperger does not teach or suggest a support member “capable of releasing a skin-protective ingredient by dissolving in the presence of the wearer’s sweat and excretions.” Maeda also does not cure this deficiency of Ehrnsperger.

Applicants submit that for at least these reasons, claim 8, as well as claims 11, 16 and 17, which depend therefrom, are patentable over the cited references and respectfully request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

The Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, including any additional filing or application processing fees required under 37 C.F.R. §1.16 or 1.17, or to credit any overpayment, to Deposit Account No. 04-0100.

Dated: March 8, 2010

Respectfully submitted,

By 

Robert C. Sullivan, Jr.

Registration No.: 30,499

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant